United Nations ST/AI/1999/7/Amend.1

Secretariat

15 March 2006

Administrative instruction amending administrative instruction ST/AI/1999/7

Consultants and individual contractors

Pursuant to section 4.2 of Secretary-General's bulletin ST/SGB/1997/1, and for the purpose of clarifying the medical clearance requirements for consultants and of implementing General Assembly resolution 59/300 of 22 June 2005, the Under-Secretary-General for Management amends as follows administrative instruction ST/AI/1999/7, entitled "Consultants and individual contractors":

In section 1, entitled "Definitions", the following text is added as the new subparagraph (c):

> "The expression 'any office of the Organization' shall include any premise used by the Organization for its official business, wheresoever located."

Section 4.7, entitled "Medical clearance", is replaced by the following text:

> "Before commencing work, a consultant who is expected to work in any office of the Organization or is required to travel by the Organization shall be required to submit a statement of good health and to take full responsibility for the accuracy of that statement, including confirmation that he or she has been informed regarding inoculations required for the country or countries to which travel is authorized. Consultants working from their residence shall be required to submit a statement of good health only when required to travel by the Organization."

In section 5, entitled "Contractual terms and conditions", the following text is added as the new paragraph 5.6 bis:

> "Consultants shall be provided with a copy of Secretary-General's bulletin ST/SGB/2003/13, entitled 'Special measures for protection from sexual exploitation and sexual abuse', and shall be required to submit a written undertaking indicating their agreement to abide by the standards of conduct contained in that bulletin."

In section 8.2, the term "annex B" shall be replaced by the words "the annex".

Annexes A and B of ST/AI/1999/7 are replaced with the annex to the present instruction.

The present instruction shall enter into force on 1 April 2006.

(*Signed*) Christopher B. **Burnham**
Under-Secretary-General for Management

06-27271 (E) 210306

Annex

UNITED NATIONS NATIONS UNIES

CONTRACT FOR THE SERVICES OF A
CONSULTANT OR INDIVIDUAL CONTRACTOR

CONTRACT TYPE: Consultant ☐ Individual Contractor ☐ (see section 1 of ST/AI/1999/7)

CONTRACT NO.:	Status:	Amendment No.:	Department:
BAC:		Index No.:	Nationality:

This Contract is entered into between the **United Nations** and (name), hereinafter referred to as the **Contractor**
Address:

City, State, Province, Postal Code: Tel. No.:

1. TERMS OF REFERENCE OR WORK ASSIGNMENT (see section 3 of ST/AI/1999/7; use additional pages if necessary)

Travel details:
(if authorized)

2. DURATION OF CONTRACT: within the period indicated below.

This Contract shall commence on , and shall expire on the satisfactory completion of the services described above, but not later than , unless sooner terminated under the terms of this Contract. This Contract is subject to the conditions on the following pages.

3. CONSIDERATION – As full consideration for the services performed by the Contractor under the terms of this Contract, the United Nations shall pay the Contractor, upon certification that the services have been satisfactorily performed in accordance with the requirements of this Contract, as follows:

- A fee of ☐ Daily ☐ Weekly ☐ Monthly ☐ Lump sum Currency: Total fee:
- Where two currencies are involved, the rate of exchange shall be the official rate applied by the United Nations on the day the United Nations instructs its bankers to effect the payment(s);
- The fee is payable on satisfactory completion of the Contract. For payment in instalments, certification of satisfactory performance at each phase is required.

PHASE	AMOUNT

4. WORK LOCATION AND HEALTH CERTIFICATION: The Contractor shall perform the work assignment at the following location or locations: . In accordance with section 4.7 of ST/AI/1999/7 (check one):
   - ☐ The Contractor has submitted a statement of good health and confirmation of immunization;
   - ☐ The Contractor is not required to submit a statement of good health and confirmation of immunization.

By signing below and initialling to the right, I, the Contractor, acknowledge and agree that I have read and accept the terms of this Contract, including the General Conditions of Contracts set forth on the following pages, which form an integral part of this Contract, and that I have been provided with a copy of, have read and understood, and agree to abide by the standards of conduct set forth in the Secretary-General's bulletin ST/SGB/2003/13 of 9 October 2003, entitled "Special measures for protection from sexual exploitation and sexual abuse".

CONTRACTOR'S INITIALS: _____

Contractor:

DATE:

SIGNATURE: _____

AUTHORIZING OFFICER:
On behalf of the United Nations:
(Name and title)

DATE:

SIGNATURE:

Distribution: - Contractor -Executive Office -OHRM -Requesting Department -Accounts

UNITED NATIONS NATIONS UNIES

GENERAL CONDITIONS OF CONTRACTS FOR THE SERVICES OF CONSULTANTS OR INDIVIDUAL CONTRACTORS

1. LEGAL STATUS

The Contractor shall have the legal status of an independent contractor vis-à-vis the United Nations, and shall not be regarded, for any purposes, as being either a "staff member" of the United Nations, under the United Nations Staff Regulations and Rules, or an "official" of the United Nations, for purposes of the Convention on the Privileges and Immunities of the United Nations, adopted by the General Assembly of the United Nations on 13 February 1946. Accordingly, nothing within or relating to the Contract shall establish the relationship of employer and employee, or of principal and agent, between the United Nations and the Contractor. The officials, representatives, employees or subcontractors of the United Nations and of the Contractor, if any, shall not be considered in any respect as being the employees or agents of the other, and the United Nations and the Contractor shall be solely responsible for all claims arising out of or relating to its engagement of such persons or entities.

2. STANDARDS OF CONDUCT

In General: The Contractor shall neither seek nor accept instructions from any authority external to the United Nations in connection with the performance of its obligations under the Contract. Should any authority external to the United Nations seek to impose any instructions on the Contractor regarding the Contractor's performance under the Contract, the Contractor shall promptly notify the United Nations and shall provide all reasonable assistance required by the United Nations. The Contractor shall not take any action in respect of its performance of the Contract or otherwise related to its obligations under the Contract that may adversely affect the interests of the United Nations, and the Contractor shall perform its obligations under the Contract with the fullest regard to the interests of the United Nations. The Contractor warrants that it has not and shall not offer any direct or indirect benefit arising from or related to the performance of the Contract or the award thereof to any representative, official, employee or other agent of the United Nations. The Contractor shall comply with all laws, ordinances, rules and regulations bearing upon the performance of its obligations under the Contract.

Prohibition of Sexual Exploitation and Abuse: In the performance of the Contract, the Contractor shall comply with the standards of conduct set forth in the Secretary-General's bulletin ST/SGB/2003/13 of 9 October 2003, concerning "Special measures for protection from sexual exploitation and sexual abuse". In particular, the Contractor shall not engage in any conduct that would constitute sexual exploitation or sexual abuse, as defined in that bulletin.

The Contractor acknowledges and agrees that any breach of any of the provisions hereof shall constitute a breach of an essential term of the Contract, and, in addition to any other legal rights or remedies available to any person, shall give rise to grounds for termination of the Contract. In addition, nothing herein shall limit the right of the United Nations to refer any alleged breach of the foregoing standards of conduct to the relevant national authorities for appropriate legal action.

3. TITLE RIGHTS, COPYRIGHTS, PATENTS AND OTHER PROPRIETARY RIGHTS

Title to any equipment and supplies that may be furnished by the United Nations to the Contractor for the performance of any obligations under the Contract shall rest with the United Nations, and any such equipment shall be returned to the United Nations at the conclusion of the Contract or when no longer needed by the Contractor. Such equipment, when returned to the United Nations, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear, and the Contractor shall be liable to compensate the United Nations for any damage or degradation of the equipment that is beyond normal wear and tear.

The United Nations shall be entitled to all intellectual property and other proprietary rights, including, but not limited to, patents, copyrights and trademarks, with regard to products, processes, inventions, ideas, know-how or documents and other materials which the Contractor has developed for the United Nations under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the United Nations. However, to the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (a) that pre-existed the performance by the Contractor of its obligations under the Contract, or (b) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the United Nations does not and shall not claim any ownership interest thereto, and the Contractor grants to the United Nations a perpetual licence to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract. At the request of the United Nations, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the United Nations in compliance with the requirements of the applicable law and of the Contract. Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents and all other data compiled by or received by the Contractor under the Contract shall be the property of the United Nations, shall be made available for use or inspection by the United Nations at reasonable times and in reasonable places, shall be treated as confidential and shall be delivered only to United Nations authorized officials on completion of work under the Contract.

4. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION

Information and data that are considered proprietary by either the United Nations or the Contractor or that are delivered or disclosed by one of them ("Discloser") to the other ("Recipient") during the course of performance of the Contract, and that are designated as confidential ("Information"), shall be held in confidence and shall be handled as follows. The Recipient of such Information shall use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate, and the Recipient may otherwise use the Discloser's Information solely for the purpose for which it was disclosed. The Recipient may disclose confidential Information to any other party with the Discloser's prior written consent, as well as to the Recipient's employees, officials, representatives and agents who have a need to know such confidential Information solely for purposes of performing obligations under the Contract. Subject to and without any waiver of the privileges and immunities of the United Nations, the Contractor may disclose Information to the extent required by law, *provided that* the Contractor will give the United Nations sufficient prior

notice of a request for the disclosure of Information in order to allow the United Nations to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made. The United Nations may disclose Information to the extent as required pursuant to the Charter of the United Nations, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General. The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder. These obligations and restrictions of confidentiality shall be effective during the term of the Contract, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following any termination of the Contract.

5. TRAVEL, MEDICAL CLEARANCE AND SERVICE-INCURRED DEATH, INJURY OR ILLNESS

If the Contractor is required by the United Nations to travel beyond commuting distance from the Contractor's usual place of residence, such travel shall be at the expense of the United Nations and shall be governed by conditions equivalent to the relevant provisions of the 100 series of the United Nations Staff Rules (chap. VII). Such travel shall be at the least costly airfare structure regularly available or its equivalent when by air, unless a higher standard is approved in advance by, or on behalf of, the Under-Secretary-General for Management, and first class by rail.

The United Nations may require the Contractor to submit a statement of good health prior to commencement of work in any offices or premises of the United Nations or before engaging in any travel required by the United Nations or connected with the performance of the Contract. The Contractor shall provide such a statement of good health as soon as practicable following such request, and prior to engaging in any such travel, and the Contractor warrants the accuracy of any such statement, including, but not limited to, confirmation that the Contractor has been fully informed regarding the requirements for inoculations for the country or countries to which travel may be authorized.

In the event of the death, injury or illness of the Contractor which is attributable to the performance of services on behalf of the United Nations under the terms of the Contract while the Contractor is travelling at United Nations expense or is performing any services under the Contract in any offices or premises of the United Nations, the Contractor or the Contractor's dependants, as appropriate, shall be entitled to compensation equivalent to that provided under appendix D to the United Nations Staff Rules (ST/SGB/Staff Rules/Appendix D/Rev.1 and Amend.1).

6. PROHIBITION ON ASSIGNMENT; MODIFICATIONS

The Contractor may not assign, delegate, transfer, pledge or make any other disposition of the Contract, of any part thereof, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of the United Nations, and any attempt to do so shall be null and void. The terms or conditions of any supplemental undertakings, licences or other forms of agreement concerning any goods or services to be provided under the Contract shall not be valid and enforceable against the United Nations nor in any way shall constitute an agreement by the United Nations thereto, unless any such undertakings, licences or other forms of agreement are the subject of a valid written undertaking by the United Nations. No modification or change in the Contract shall be valid and enforceable against the

United Nations unless provided by means of a valid written amendment to the Contract signed by the Contractor and an authorized official or appropriate contracting authority of the United Nations.

7. SUBCONTRACTORS

In the event that the Contractor requires the services of subcontractors to perform any obligations under the Contract, the Contractor shall obtain the prior written approval of the United Nations for any such subcontractors. The United Nations may, in its sole discretion, reject any proposed subcontractor or require such subcontractor's removal without having to give any justification therefor, and such rejection shall not entitle the Contractor to claim any delays in the performance, or to assert any excuses for the non-performance, of any of its obligations under the Contract. The Contractor shall be solely responsible for all services and obligations performed by its subcontractors. The terms of any subcontract shall be subject to, and shall be construed in a manner that is fully in accordance with, all of the terms and conditions of the Contract.

8. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF THE UNITED NATIONS

The Contractor shall not advertise or otherwise make public for purposes of commercial advantage or goodwill that it has a contractual relationship with the United Nations, nor shall the Contractor, in any manner whatsoever, use the name, emblem or official seal of the United Nations, or any abbreviation of the name of the United Nations, in connection with its business or otherwise without the written permission of the United Nations.

9. INDEMNIFICATION

The Contractor shall indemnify, defend, and hold and save harmless the United Nations, and its officials, agents and employees, from and against all suits, proceedings, claims, demands, losses and liability of any kind or nature, including, but not limited to, all litigation costs and expenses, attorney's fees, settlement payments and damages, based on, arising from, or relating to: (a) allegations or claims that the use by the United Nations of any patented device, any copyrighted material or any other goods or services provided to the United Nations for its use under the terms of the Contract, in whole or in part, separately or in combination, constitutes an infringement of any patent, copyright, trademark or other intellectual property right of any third party; or (b) any acts or omissions of the Contractor, or of any subcontractor or anyone directly or indirectly employed by them in the performance of the Contract, which give rise to legal liability to anyone not a party to the Contract, including, without limitation, claims and liability in the nature of a claim for workers' compensation.

10. INSURANCE

The Contractor shall pay the United Nations promptly for all loss, destruction or damage to the property of the United Nations caused by the Contractor, or of any subcontractor, or anyone directly or indirectly employed by them in the performance of the Contract. The Contractor shall be solely responsible for taking out and for maintaining adequate insurance required to meet any of its obligations under the Contract, as well as for arranging, at the Contractor's sole expense, such life, health and other forms of insurance as the Contractor may consider to be appropriate to cover the period during which the Contractor provides services under the Contract. The Contractor acknowledges and agrees that none of the insurance arrangements the Contractor may make shall, in any way, be construed to limit the Contractor's liability arising under or relating to the Contract.

11. ENCUMBRANCES AND LIENS

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with the United Nations against any monies due to the Contractor or to become due for any work done or against any goods supplied or materials furnished under the Contract, or by reason of any other claim or demand against the Contractor.

12. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

In the event of and as soon as possible after the occurrence of any cause constituting *force majeure*, the Contractor shall give notice and full particulars in writing to the United Nations of such occurrence or cause if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under the Contract. The Contractor shall also notify the United Nations of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of the Contract. Not more than fifteen (15) days following the provision of such notice of *force majeure* or other changes in conditions or occurrence, the Contractor shall also submit a statement to the United Nations of estimated expenditures that will likely be incurred for the duration of the change in conditions or the event. On receipt of the notice or notices required hereunder, the United Nations shall take such action as it considers, in its sole discretion, to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform any obligations under the Contract.

If the Contractor is rendered permanently unable, wholly or in part, by reason of *force majeure* to perform its obligations and meet its responsibilities under the Contract, the United Nations shall have the right to suspend or terminate the Contract on the same terms and conditions as are provided for below, under "Termination", except that the period of notice shall be five (5) days instead of any other period of notice. In any case, the United Nations shall be entitled to consider the Contractor permanently unable to perform its obligations under the Contract in the case of the Contractor's suffering any period of suspension in excess of thirty (30) days.

Force majeure as used herein means any unforeseeable and irresistible act of nature, any act of war (whether declared or not), invasion, revolution, insurrection, or any other acts of a similar nature or force, *provided that* such acts arise from causes beyond the control and without the fault or negligence of the Contractor. The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the United Nations is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delay or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute *force majeure* under the Contract.

13. TERMINATION

Either party may terminate the Contract, in whole or in part, upon giving written notice to the other party. The period of notice shall be five (5) days in the case of contracts for a total period of less than two (2) months and fourteen (14) days in the case of contracts for a longer period. The initiation of conciliation or arbitral proceedings, as provided below, shall not be deemed to be a "cause" for or otherwise to be in itself a termination of the Contract. The United Nations may, without prejudice to any other right or remedy available to it, terminate the Contract forthwith in the event that: (a) the Contractor is adjudged bankrupt, or is

liquidated, or becomes insolvent, applies for moratorium or stay on any payment or repayment obligations, or applies to be declared insolvent; (b) the Contractor is granted a moratorium or a stay or is declared insolvent; the Contractor makes an assignment for the benefit of one or more of its creditors; (c) a Receiver is appointed on account of the insolvency of the Contractor; (d) the Contractor offers a settlement in lieu of bankruptcy or receivership; or (e) the United Nations reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to endanger or otherwise substantially affect the ability of the Contractor to perform any of its obligations under the Contract.

In the event of any termination of the Contract, upon receipt of notice of termination by the United Nations, the Contractor shall, except as may be directed by the United Nations in the notice of termination or otherwise in writing: (a) take immediate steps to bring the performance of any obligations under the Contract to a close in a prompt and orderly manner, and in doing so, reduce expenses to a minimum; (b) refrain from undertaking any further or additional commitments under the Contract as of and following the date of receipt of such notice; (c) deliver all completed or partially completed plans, drawings, information and other property that, if the Contract had been completed, would be required to be furnished to the United Nations thereunder; (d) complete performance of the work not terminated; and (e) take any other action that may be necessary, or that the United Nations may direct in writing, for the protection and preservation of any property, whether tangible or intangible, related to the Contract that is in the possession of the Contractor and in which the United Nations has or may be reasonably expected to acquire an interest.

In the event of any termination of the Contract, the United Nations shall only be liable to pay the Contractor compensation on a *pro rata* basis for no more than the actual amount of work performed to the satisfaction of the United Nations in accordance with the requirements of the Contract. Additional costs incurred by the United Nations resulting from the termination of the Contract by the Contractor may be withheld from any amount otherwise due to the Contractor from the United Nations.

14. NON-EXCLUSIVITY

The United Nations shall have no obligation respecting, and no limitations on, its right to obtain goods of the same kind, quality and quantity, or to obtain any services of the kind described in the Contract, from any other source at any time.

15. TAXATION

Article II, section 7, of the Convention on the Privileges and Immunities of the United Nations provides, *inter alia*, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs restrictions, duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the exemptions of the United Nations from such taxes, restrictions, duties or charges, the Contractor shall immediately consult with the United Nations to determine a mutually acceptable procedure. The United Nations shall have no liability for taxes, duties or other similar charges payable by the Contractor in respect of any amounts paid to the Contractor under this Contract, and the Contractor acknowledges that the United Nations will not issue any statements of earnings to the Contractor in respect of any such payments.

16. SETTLEMENT OF DISPUTES

Amicable Settlement: The United Nations and the Contractor shall use their best efforts to amicably settle any dispute, controversy or claim arising out of the Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the Conciliation Rules then obtaining of the United Nations Commission on International Trade Law ("UNCITRAL"), or according to such other procedure as may be agreed between the parties in writing.

Arbitration: Any dispute, controversy or claim between the parties arising out of the Contract, or the breach, termination, or invalidity thereof, unless settled amicably, as provided above, shall be referred by either of the parties to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim Measures of Protection") and Article 32 ("Form and Effect of the Award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy or claim.

17. PRIVILEGES AND IMMUNITIES

Nothing in or relating to the Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.